

AMENDED IN ASSEMBLY MARCH 31, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

## ASSEMBLY BILL

**No. 1086**

**Introduced by Assembly Member Lieber**

February 22, 2005

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~~An act to add Section 5090.39 to the Public Resources Code, relating to public resources. An act to amend Sections 38170 and 38301 of, to amend the heading of Article 6 (commencing with Section 38319) of Chapter 5 of Division 16.5 of, and to add Section 38323 to, the Vehicle Code, relating to vehicles.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 1086, as amended, Lieber. ~~Public resources: Division of Off-Highway Motor Vehicle Recreation: hotline—Vehicles: off-highway motor vehicles: operation.~~

(1) Existing law specifies the location for the display of an identification plate or device on certain categories of off-highway motor vehicles.

This bill, instead, would specify the dimensions of the identification plate or device, and the measurements for the print on the plate or device, for these vehicles. The bill would revise the location for the display of the plate or device on the vehicle.

(2) Existing law makes it unlawful to operate a vehicle in violation of any special regulation that has been promulgated by the governmental agency having jurisdiction over public lands, including regulations governing access, routes of travel, plants, wildlife, wildlife habitat, water resources, and historical sites. A violation of this provision is an infraction under other related provisions of existing law.

*This bill, additionally, would make it unlawful to operate a vehicle in violation of a statute, ordinance, rule, or order that has been promulgated, issued, or passed by a governmental agency having jurisdiction over public lands, including provisions governing wilderness areas and closed areas. The bill would make a third or subsequent violation of this provision within 7 years of 2 or more prior violations punishable as a misdemeanor, by certain fines, or terms of imprisonment in a county jail, or by both the fines and imprisonment. Thereby, imposing a state-mandated local program by increasing the duties imposed on local law enforcement agencies. The bill would authorize a court to order the impoundment, at the owner's expense, of a vehicle used in the commission of a third or subsequent violation.*

*(3) Existing law prohibits driving a vehicle upon real property belonging to, or lawfully occupied by, another and known not to be open to the general public, without the consent of the owner, the owner's agent, or the person in lawful possession.*

*This bill would make it unlawful for a person to operate an off-highway motor vehicle on a trail on private property that has not been designated by the property owner for use by off-highway motor vehicles, or that is not within the limits of a public easement that permits use by off-highway motor vehicles, unless the person has in his or her immediate possession a written document substantiating permission from the property owner to operate the vehicle on that trail. The bill would provide that the fact that the property fenced or posted with signs identifying it as private property or indicating that off-highway motor vehicles are not permitted on a trail is not a defense to a charge of having violated this provision. The bill would establish a state-mandated local program by creating a new crime.*

*(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law establishes the Division of Off-Highway Motor Vehicle Recreation in the Department of Parks and Recreation, with the duty of managing, maintaining, administering, and operating the state vehicular recreation areas and trails within the state park system.~~

~~This bill would require the division to establish an unstaffed toll-free telephone hotline for the purpose of receiving reports on resource damage and off-highway vehicle violations and providing information to the general public regarding trail conditions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 5090.39 is added to the Public~~  
2     ~~Resources Code, to read:~~

3     ~~5090.39. The division shall establish an unstaffed toll-free~~  
4     ~~telephone hotline for the purpose of receiving reports on resource~~  
5     ~~damage and off-highway vehicle violations and providing~~  
6     ~~information to the general public regarding trail conditions.~~

7     ~~SECTION 1. Section 38170 of the Vehicle Code is amended~~  
8     ~~to read:~~

9     ~~38170. (a) Every off-highway motor vehicle subject to~~  
10    ~~identification shall have displayed upon it the identification~~  
11    ~~number assigned to the vehicle for which it is issued, together~~  
12    ~~with the word "California" or the abbreviation "CAL" and the~~  
13    ~~year number for which it is issued or a suitable device issued by~~  
14    ~~the department for validation purposes, which device shall~~  
15    ~~contain the year for which it is issued.~~

16    ~~(b) The identification plate or device shall at all times be~~  
17    ~~securely fastened to the vehicle for which it is issued and shall be~~  
18    ~~mounted or affixed in a position to be clearly visible, and shall be~~  
19    ~~maintained in a condition so as to be clearly legible. No covering~~  
20    ~~shall be used on the identification plate or device.~~

21    ~~(c) All identification plates or devices issued on or after~~  
22    ~~January 1, 1996, shall be displayed as follows:~~

23    ~~(1) On the left fork leg of a motorcycle, either horizontal or~~  
24    ~~vertical, and shall be visible from the left side of the motorcycle.~~

25    ~~(2) On the left quadrant of the metal frame member of sand~~  
26    ~~rails, rail-type buggies, and dune buggies, visible from the rear of~~  
27    ~~the vehicle.~~

28    ~~(3) On the left rear quadrant on permanent plastic or metal~~  
29    ~~frame members of all-terrain vehicles, visible to outside~~  
30    ~~inspections.~~

31    ~~(4) On the left tunnel on the back quadrant of snowmobiles.~~

1     (c) *The identification plate or device shall meet the following*  
2 *specifications and shall be displayed as follows:*

3     (1) *On a motorcycle, the identification plate or device shall*  
4 *measure seven inches in length and four inches in width. The*  
5 *characters on the plate or device shall have a minimum height of*  
6 *one and one-half inches and a minimum width of nine-sixteenths*  
7 *of an inch, and shall have a minimum spacing between*  
8 *characters of three-sixteenths of an inch. The plate or device*  
9 *shall be mounted on the rear of the motorcycle.*

10    (2) *On a sand rail, rail-type buggy, or dune buggy, the*  
11 *identification plate or device shall measure 12 inches in length*  
12 *and 6 inches in width. The characters on the plate or device shall*  
13 *have a minimum height of two and three-quarter inches and a*  
14 *minimum width of one and one-quarter inches, and shall have a*  
15 *minimum spacing between characters of five-sixteenths of a inch.*  
16 *The plate or device shall be mounted on the front and rear of the*  
17 *vehicle.*

18    (3) *On an all-terrain vehicle, the identification plate or device*  
19 *shall measure 12 inches in length and 6 inches in width. The*  
20 *characters on the plate or device shall have a minimum height of*  
21 *two and three-quarter inches and a minimum width of one and*  
22 *one-quarter inches, and shall have a minimum spacing between*  
23 *characters of five-sixteenths of an inch. The plate or device shall*  
24 *be mounted on the front and rear of the vehicle.*

25    (4) *On a snowmobile, the identification plate or device shall*  
26 *measure 12 inches in length and 6 inches in width. The*  
27 *characters on the plate or device shall have a minimum height of*  
28 *two and three-quarter inches and a minimum width of one and*  
29 *one-quarter inches, and shall have a minimum spacing between*  
30 *characters of five-sixteenths of an inch. The plate or device shall*  
31 *be mounted on the rear the vehicle.*

32    SEC. 2. *Section 38301 of the Vehicle Code is amended to*  
33 *read:*

34    38301. (a) *It is unlawful to operate a vehicle in violation of*  
35 *~~special regulations which have a statute, ordinance, rule,~~*  
36 *regulation, or order that has been promulgated, issued, or passed*  
37 *by the a governmental agency having jurisdiction over public*  
38 *lands, including, but not limited to, statutes, ordinances, rules,*  
39 *orders, or regulations governing access, routes of travel, plants,*

1 wildlife, wildlife habitat, water resources, *wilderness areas*,  
2 *closed areas*, and historical sites.

3 (b) *Except as provided in subdivisions (c) and (d), a violation*  
4 *of subdivision (a) is an infraction, punishable by a fine of not*  
5 *more than five hundred dollars (\$500).*

6 (c) *A second violation of subdivision (a) that is committed*  
7 *within seven years after a prior violation of subdivision (a) for*  
8 *which there was a conviction is an infraction, punishable by a*  
9 *fine of not more than seven hundred fifty dollars (\$750).*

10 (d) (1) *A third or subsequent violation of subdivision (a) that*  
11 *is committed within seven years after two or more prior*  
12 *violations of subdivision (a) for which there were convictions is a*  
13 *misdemeanor, punishable by a fine of not more than one*  
14 *thousand dollars (\$1,000), or by imprisonment in a county jail*  
15 *for not more than 90 days, or by both that fine and imprisonment.*

16 (2) *In addition to the fine imposed under paragraph (1), the*  
17 *court may order impoundment of a vehicle used in commission of*  
18 *the offense if the person punished under this subdivision is the*  
19 *owner of the vehicle and the vehicle is subject to identification*  
20 *under Section 38010. The period of impoundment shall be for not*  
21 *less than one day and not more than 30 days. The impoundment*  
22 *shall be at the vehicle owner's expense.*

23 SEC. 3. *The heading of Article 6 (commencing with Section*  
24 *38319) of Chapter 5 of Division 16.5 of the Vehicle Code is*  
25 *amended to read:*

26  
27 Article 6. *Trespassing, Littering, and Environmental*  
28 *Protection*  
29

30 SEC. 4. *Section 38323 is added to the Vehicle Code, to read:*

31 38323. (a) *It is unlawful for a person to operate an*  
32 *off-highway motor vehicle on a trail on private property that has*  
33 *not been designated by the property owner for use by*  
34 *off-highway motor vehicles, or that is not within the limits of a*  
35 *public easement that permits use by off-highway motor vehicles,*  
36 *unless the person has in his or her immediate possession a*  
37 *written document substantiating permission from the property*  
38 *owner to operate the vehicle on that trail.*

39 (b) *The fact that the property is not been fenced or posted with*  
40 *signs identifying it as private property or indicating that*

1 *off-highway motor vehicles are not permitted on a trail is not a*  
2 *defense to a charge of having violated subdivision (a).*

3 *(c) (1) Except as provided in paragraphs (2) and (3), a*  
4 *violation of subdivision (a) is an infraction, punishable by a fine*  
5 *of not more than two hundred fifty dollars (\$250).*

6 *(2) A second violation of subdivision (a) that is committed*  
7 *within seven years after a prior violation of subdivision (a) for*  
8 *which there was a conviction is an infraction, punishable by a*  
9 *fine of not more than five hundred dollars (\$500).*

10 *(3) A third or subsequent violation of subdivision (a) that is*  
11 *committed within seven years after two or more prior violations*  
12 *of subdivision (a) for which there were convictions is an*  
13 *infraction, punishable by a fine of not more than one thousand*  
14 *dollars (\$1,000).*

15 *SEC. 5. No reimbursement is required by this act pursuant to*  
16 *Section 6 of Article XIII B of the California Constitution because*  
17 *the only costs that may be incurred by a local agency or school*  
18 *district will be incurred because this act creates a new crime or*  
19 *infraction, eliminates a crime or infraction, or changes the*  
20 *penalty for a crime or infraction, within the meaning of Section*  
21 *17556 of the Government Code, or changes the definition of a*  
22 *crime within the meaning of Section 6 of Article XIII B of the*  
23 *California Constitution.*